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CLERK U S DISTRICT COURT DISTRICT OF ARIZONA			
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

10 | United States of America

CR-17-8315-PCT-SPL

**Plaintiff,**

## PLEA AGREEMENT

VS.

Georgina Warren,

**Defendant**

Plaintiff, United States of America, and the defendant, GEORGINA WARREN (“defendant”), hereby agree to dispose of this matter on the following terms and conditions:

## **1. PLEA**

Defendant will plead guilty to **Count 1: INVOLUNTARY MANSLAUGHTER**, a lesser included offense of Second Degree Murder as charged in the Superseding Indictment, in violation of Title 18, United States Code, Sections 1153 and 1112, a Class D felony offense. Defendant will also plead guilty to **Count 3: ASSAULT RESULTING IN SERIOUS BODILY INJURY**, as charged in the Superseding Indictment, in violation of Title 18 United States Code, Sections 1153 and 113(a)(6) a Class C felony offense.

## 2. MAXIMUM PENALTIES

a. Count 1: A violation of 18 U.S.C. § 1112 is punishable by a maximum fine of \$250,000, a maximum term of 8 years imprisonment, or both, and a term of up to three years supervised release. Count 3: A violation of 18 U.S.C. § 113(a)(6) is punishable by

1 a maximum fine of \$250,000, a maximum term of 10 years imprisonment and up to life, or  
2 both, and a term of up to three years supervised release.

3 b. According to the Sentencing Guidelines issued pursuant to the Sentencing  
4 Reform Act of 1984, the Court shall order the defendant to:

5 (1) make restitution to any victim of the offense pursuant to 18 U.S.C. §  
6 3663 and/or 3663A, unless the Court determines that restitution would not be appropriate;

7 (2) pay a fine pursuant to 18 U.S.C. § 3572, unless the Court finds that a  
8 fine is not appropriate;

9 (3) serve a term of supervised release when required by statute or when a  
10 sentence of imprisonment of more than one year is imposed (with the understanding that  
11 the Court may impose a term of supervised release in all other cases); and

12 (4) pay upon conviction a \$100 special assessment for each count to  
13 which the defendant pleads guilty pursuant to 18 U.S.C. § 3013(a)(2)(A).

14 c. The Court is required to consider the United States Sentencing Guidelines  
15 (“U.S.S.G.” or “Sentencing Guidelines”) among other factors, in determining the  
16 defendant’s sentence. However, the Sentencing Guidelines are advisory, and the Court is  
17 free to exercise its discretion to impose any reasonable sentence up to the maximum set by  
18 statute for the crime(s) of conviction, unless there are stipulations to the contrary that the  
19 Court accepts.

20 **3. AGREEMENTS REGARDING SENTENCING**

21 a. Stipulation. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and  
22 the defendant stipulate that the defendant shall be sentenced to a total term of imprisonment  
23 (for both counts) between 5 and 10 years. The court may order the counts to run  
24 concurrently or consecutively as long as the resulting prison term is between the stipulated  
25 range.

26 b. Restitution. Pursuant to 18 U.S.C. § 3663 and/or 3663A and 2248, the  
27 defendant specifically agrees to make restitution to the victim in an amount to be  
28 determined by the Court, but in no event more than \$100,000.00 per victim. This restitution

1 order shall include restitution for dismissed counts. Even if the victim did not suffer  
2 physical injury, the defendant expressly agrees to pay restitution for expenditures related  
3 to treatment for mental or emotional trauma suffered by the victim that was directly and  
4 proximately caused by the defendant's conduct, including any "relevant conduct" or  
5 dismissed charges. Such expenditures shall include, but are not limited to: mental health  
6 treatment and counseling, in-patient treatment, and traditional Native American  
7 ceremonies or treatment. The defendant understands that such restitution will be included  
8 in the court's order of judgment and that an unanticipated restitution amount will not serve  
9 as grounds to withdraw defendant's guilty plea or to withdraw from his plea agreement.

10       c. Assets and Financial Responsibility. The defendant shall make a full  
11 accounting of all assets in which the defendant has any legal or equitable interest. The  
12 defendant shall not (and shall not aid or abet any other party to) sell, hide, waste, spend, or  
13 transfer any such assets or property before sentencing, without the prior approval of the  
14 United States (provided, however, that no prior approval will be required for routine, day-  
15 to-day expenditures). The defendant also expressly authorizes the United States Attorney's  
16 Office to immediately obtain a credit report as to the defendant in order to evaluate the  
17 defendant's ability to satisfy any financial obligation imposed by the Court. The  
18 defendant also shall make full disclosure of all current and projected assets to the U.S.  
19 Probation Office immediately and prior to the termination of the defendant's supervised  
20 release or probation, such disclosures to be shared with the U.S. Attorney's Office,  
21 including the Financial Litigation Unit, for any purpose. Finally, the defendant shall  
22 participate in the Inmate Financial Responsibility Program to fulfill all financial obligations  
23 due and owing under this agreement and the law.

24       If the defendant is a member of or becomes a member of a Native American tribe  
25 that provides "per capita" payments to its members, the defendant agrees that any such  
26 "per capita" payment shall be paid over to the Clerk of the Court and applied to the  
27 defendant's restitution obligation until restitution to all victims is paid in full.

28

1           d. Acceptance of Responsibility. If the defendant makes full and complete  
2 disclosure to the U.S. Probation Office of the circumstances surrounding the defendant's  
3 commission of the offense, and if the defendant demonstrates an acceptance of  
4 responsibility for this offense up to and including the time of sentencing, the United States  
5 will recommend a two-level reduction in the applicable Sentencing Guidelines offense  
6 level pursuant to U.S.S.G. § 3E1.1(a). If the defendant has an offense level of 16 or more,  
7 the United States will recommend an additional one-level reduction in the applicable  
8 Sentencing Guidelines offense level pursuant to U.S.S.G. § 3E1.1(b).

9           e. Non-Binding Recommendations. The defendant understands that  
10 recommendations are not binding on the Court. The defendant further understands that the  
11 defendant will not be permitted to withdraw the guilty plea if the Court does not follow a  
12 recommendation.

13          **4. AGREEMENT TO DISMISS OR NOT TO PROSECUTE**

14           a. At the time of sentencing, the United States will dismiss the remaining counts  
15 in the Superseding Indictment. No additional charges will be filed arising out of the  
16 discovery provided in this case.

17           b. This agreement does not, in any manner, restrict the actions of the United  
18 States in any other district or bind any other United States Attorney's Office.

19          **5. COURT APPROVAL REQUIRED; REINSTITUTION OF PROSECUTION**

20           a. If the Court, after reviewing this plea agreement, concludes that any  
21 provision contained herein is inappropriate, it may reject the plea agreement and give the  
22 defendant the opportunity to withdraw the guilty plea in accordance with Fed. R. Crim. P.  
23 11(c)(5).

24           b. If the defendant's guilty plea or plea agreement is rejected, withdrawn,  
25 vacated, or reversed at any time, this agreement shall be null and void, the United States  
26 shall be free to prosecute the defendant for all crimes of which it then has knowledge and  
27 any charges that have been dismissed because of this plea agreement shall automatically  
28 be reinstated. In such event, the defendant waives any and all objections, motions, and

1 defenses based upon the Statute of Limitations, the Speedy Trial Act, or constitutional  
2 restrictions in bringing later charges or proceedings. The defendant understands that any  
3 statements made at the time of the defendant's change of plea or sentencing may be used  
4 against the defendant in any subsequent hearing, trial, or proceeding subject to the  
5 limitations of Fed. R. Evid. 410.

6. **WAIVER OF DEFENSES AND APPEAL RIGHTS**

7 The defendant waives (1) any and all motions, defenses, probable cause  
8 determinations, and objections that the defendant could assert to the indictment or  
9 information; and (2) any right to file an appeal, any collateral attack, and any other writ or  
10 motion that challenges the conviction, an order of restitution or forfeiture, the entry of  
11 judgment against the defendant, or any aspect of the defendant's sentence, including the  
12 manner in which the sentence is determined, including but not limited to any appeals under  
13 18 U.S.C. § 3742 (sentencing appeals) and motions under 28 U.S.C. §§ 2241 and 2255  
14 (habeas petitions), and any right to file a motion for modification of sentence, including  
15 under Title 18, U.S.C., § 3582(c). This waiver shall result in the dismissal of any appeal,  
16 collateral attack, or other motion the defendant might file challenging the conviction, order  
17 of restitution or forfeiture, or sentence in this case. This waiver shall not be construed to  
18 bar an otherwise-preserved claim of ineffective assistance of counsel or of "prosecutorial  
19 misconduct" (as that term is defined by Section II.B of Ariz. Ethics Op. 15-01 (2015)).

20. **DISCLOSURE OF INFORMATION**

21 a. The United States retains the unrestricted right to provide information and  
22 make any and all statements it deems appropriate to the U.S. Probation Office and to the  
23 Court in connection with the case.

24 b. Any information, statements, documents, and evidence that the defendant  
25 provides to the United States pursuant to this agreement may be used against the defendant  
26 at any time.

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- 1           c. The defendant shall cooperate fully with the U.S. Probation Office. Such  
2 cooperation shall include providing complete and truthful responses to questions posed by  
3 the U.S. Probation Office including, but not limited to, questions relating to:  
4               (1) criminal convictions, history of drug abuse, and mental illness; and  
5               (2) financial information, including present financial assets or liabilities  
6 that relate to the ability of the defendant to pay a fine or restitution.

7           **8. FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS**

8           Nothing in this agreement shall be construed to protect the defendant from  
9 administrative or civil forfeiture proceedings or prohibit the United States from proceeding  
10 with and/or initiating an action for civil forfeiture. Pursuant to 18 U.S.C. § 3613, all  
11 monetary penalties, including restitution imposed by the Court, shall be due immediately  
12 upon judgment and subject to immediate enforcement by the United States. If the Court  
13 imposes a schedule of payments, the schedule of payments shall be merely a schedule of  
14 minimum payments and shall not be a limitation on the methods available to the United  
15 States to enforce the judgment.

16           **9. ELEMENTS OF THE OFFENSE**

17           **The Jurisdictional elements for both counts are as follows:**

18           The crimes happened within the District of Arizona and on an Indian Reservation.  
19 Further, the defendant is an Indian in that, at the time of the crime the defendant had some  
20 quantum of Indian blood and was a member of or was affiliated with a federally recognized  
tribe.

21           **The additional elements of the offense of Count 1: Involuntary Manslaughter are as  
22 follows:**

23           1. The defendant committed an unlawful act, not amounting to a felony, or  
24 committed a lawful act, done either in an unlawful manner or with wanton or reckless  
25 disregard for human life, which might produce death;

26           2. The defendant's act was the proximate cause of the death of the victim. A  
27 proximate cause is one which played a substantial part in bringing about the death, so that  
28 the death was the direct result or a reasonably probable consequence of the defendant's act;

- 1       3. The killing was unlawful; and
- 2       4. The defendant either knew that such conduct was a threat to the lives of others  
3       or knew of circumstances that would reasonably cause the defendant to foresee that  
4       such conduct might be a threat to the lives of others.

4       **The additional elements of the offense of COUNT 3: ASSAULT RESULTING IN  
5       SERIOUS BODILY INJURY are as follows:**

- 6       1. The defendant intentionally, knowingly or recklessly assaulted the victim; and
- 7       2. The victim suffered serious bodily injury as a result.

8       Serious bodily injury is defined as bodily injury which involves:

- 9       A. A substantial risk of death; or
- 10      B. Extreme physical pain; or
- 11      C. Protracted and obvious disfigurement; or
- 12      D. Protracted loss of impairment of the function of a bodily member, organ or  
13       mental faculty.

14      **10. FACTUAL BASIS**

15      a.       The defendant admits that the following facts are true and that if this matter  
16       were to proceed to trial the United States could prove the following facts beyond a  
17       reasonable doubt:

18       On or about September 2, 2017, in the District of Arizona, within the confines of  
19       the Navajo Indian Reservation, Indian Country, defendant GEORGINA WARREN,  
20       intentionally and knowingly assaulted G.W., that is, by shooting him with a .22 caliber rifle  
21       and killing him. The killing of the victim was an unlawful killing in that it was done in an  
22       unlawful manner or with wanton or reckless disregard for human life, which might produce  
23       death, (that is, pointing the gun in the direction of the victim and firing the weapon.) The  
24       defendant's act was the proximate cause of the death of the victim and defendant knew that  
25       such conduct was a threat to the life of others or knew of circumstances that would  
26       reasonably cause the defendant to foresee that such conduct might be a threat to the lives  
27       of the victim.

28       The defendant was an Indian at the time of the crime. Specifically, the defendant  
29       had some quantum of Indian blood, whether or not that blood is traceable to a member of  
30       a federally recognized tribe, such as being a blood relative to a parent, grandparent, or  
31       great-grandparent who is clearly identified as an Indian and defendant was a member of or  
32       affiliated with a federally recognized tribe, the Navajo Indian Tribe.

1       The defendant shall swear under oath to the accuracy of this statement and, if the  
2 defendant should be called upon to testify about this matter in the future, any intentional,  
3 material inconsistencies in the defendant's testimony may subject the defendant to  
4 additional penalties for perjury or false swearing, which may be enforced by the United  
5 States under this agreement.

6       **APPROVAL AND ACCEPTANCE OF THE DEFENDANT**

7       I have read the entire plea agreement with the assistance of my attorney. I  
8 understand each of its provisions and I voluntarily agree to it.

9       I have discussed the case and my constitutional and other rights with my attorney.  
10 I understand that by entering my plea of guilty I shall waive my rights to plead not guilty,  
11 to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to  
12 present evidence in my defense, to remain silent and refuse to be a witness against myself  
13 by asserting my privilege against self-incrimination, all with the assistance of counsel, and  
14 to be presumed innocent until proven guilty beyond a reasonable doubt.

15      I agree to enter my guilty plea as indicated above on the terms and conditions set  
16 forth in this agreement.

17      I have been advised by my attorney of the nature of the charges to which I am  
18 entering my guilty plea. I have further been advised by my attorney of the nature and range  
19 of the possible sentence and that my ultimate sentence shall be determined by the Court  
20 after consideration of the advisory Sentencing Guidelines.

21      My guilty plea is not the result of force, threats, assurances, or promises, other than  
22 the promises contained in this agreement. I voluntarily agree to the provisions of this  
23 agreement and I agree to be bound according to its provisions.

24      I understand that if I am granted probation or placed on supervised release by the  
25 Court, the terms and conditions of such probation/supervised release are subject to  
26 modification at any time. I further understand that if I violate any of the conditions of my  
27 probation/supervised release, my probation/supervised release may be revoked and upon  
28

1 such revocation, notwithstanding any other provision of this agreement, I may be required  
2 to serve a term of imprisonment or my sentence otherwise may be altered.

3 This written plea agreement, and any written addenda filed as attachments to this  
4 plea agreement, contain all the terms and conditions of the plea. Any additional  
5 agreements, if any such agreements exist, shall be recorded in a separate document and  
6 may be filed with the Court under seal; accordingly, additional agreements, if any, may not  
7 be in the public record.

8 I further agree that promises, including any predictions as to the Sentencing  
9 Guideline range or to any Sentencing Guideline factors that will apply, made by anyone  
10 (including my attorney) that are not contained within this written plea agreement, are null  
11 and void and have no force and effect.

12 I am satisfied that my defense attorney has represented me in a competent manner.

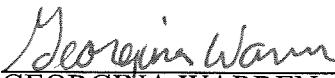
13 I fully understand the terms and conditions of this plea agreement. I am not now  
14 using or under the influence of any drug, medication, liquor, or other intoxicant or  
15 depressant that would impair my ability to fully understand the terms and conditions of this  
16 plea agreement.

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4-30-18

19 Date

  
GEORGINA WARREN  
Defendant

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#### APPROVAL OF DEFENSE COUNSEL

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I have discussed this case and the plea agreement with my client in detail and have advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea including the maximum statutory sentence possible. I have further discussed the concept of the advisory Sentencing Guidelines with the defendant. No

1 assurances, promises, or representations have been given to me or to the defendant by the  
2 United States or any of its representatives that are not contained in this written agreement.  
3 I concur in the entry of the plea as indicated above and that the terms and conditions set  
4 forth in this agreement are in the best interests of my client. I agree to make a bona fide  
5 effort to ensure that the guilty plea is entered in accordance with all the requirements of  
6 Fed. R. Crim. P. 11.

7

*4-30-18*

8

9

Date



MARC J. VICTOR  
Attorney for Defendant

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#### **APPROVAL OF THE UNITED STATES**

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I have reviewed this matter and the plea agreement. I agree on behalf of the United  
12 States that the terms and conditions set forth herein are appropriate and are in the best  
13 interests of justice.

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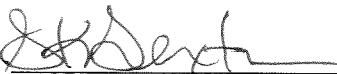
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*4/30/18*

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17

Date



ELIZABETH A. STRANGE  
First Assistant United States Attorney  
District of Arizona

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#### **ACCEPTANCE BY THE COURT**

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Date



STEVEN P. LOGAN  
United States District Judge

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